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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,692	11/10/2000	Edward B. Gindele	81753WFN	4714
1333	7590	08/24/2004	EXAMINER	
PATENT LEGAL STAFF EASTMAN KODAK COMPANY 343 STATE STREET ROCHESTER, NY 14650-2201			KIM, CHONG R	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/709,692	<b>Applicant(s)</b> GINDELE, EDWARD B.	
	<b>Examiner</b> Charles Kim	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10, 12-14, 22-47 and 70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 22, 36 and 45 is/are allowed.
- 6) ☒ Claim(s) 1-6, 10, 12, 14, 23-35, 37-44, 46, 47 and 70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 2, 2004 has been entered.

### ***Response to Amendment and Arguments***

2. Applicant's amendment filed on July 2, 2004 has been entered and made of record.
3. Applicant's arguments have been fully considered and are addressed in the art rejection below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-6, 10, 12, 14, 23-35, 37-42, 44, 46, 47 are rejected under 35 U.S.C. 102(b) as being anticipated by the software program published by EPSON entitled

“Film Factory” version 1.0 and the relevant material associated with the program (“EPSON”).

Referring to claim 1, EPSON discloses a method for deriving enhanced image processing parameters for a source digital image, comprising the steps of:

- a. providing a source (original) digital image (figure 1)
- b. generating at least three rendered digital images from the source digital image with at least one image processing parameter associated with each rendered digital image (figure 1. Note that the imaging parameters associated with each of the corresponding rendered digital images are “Green +”, “Green -“, “Blue +”, “Blue -“, “Red +“, and “Red -“)
- c. simultaneously displaying the rendered digital images on a display (figure 1)
- d. selecting two or more of the simultaneously displayed rendered digital images [page 2 and figures 1-3. Page 2 explains how the rendered digital images can be selected to vary the color of the source image. Figure 1 shows a screen shot image prior to selecting the rendered digital images, figure 3 shows a screen shot image of the displayed “Blue+” image and the “Red-“ image being selected)]
- d. using the image processing parameters associated with the selected two or more rendered images to generate enhanced image processing parameters for generating an enhanced image [figure 3. The enhanced image processing parameters are shown on the left portion of the “Manual Retouch” window in figure 3. Note the difference between the imaging processing parameters of the original source image (figure 1), and

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the resulting enhanced imaging processing parameters (figure 3) after the two rendered digital images are selected].

Referring to claim 3, EPSON further discloses the step of using the enhanced image processing parameters and the source digital image to produce an enhanced digital image (page 4. Selecting the “Retouch” button (figure 3) produces the enhanced digital image in figure 4).

Referring to claim 4, EPSON further discloses that the image processing parameters relate to the brightness of the rendered digital image (page 1 and figure 5).

Referring to claim 5, EPSON further discloses that the image processing parameters relate to the color of the rendered digital images (figures 1-4).

Referring to claim 6, EPSON further discloses that the image processing parameters relate to the tone scale of the rendered digital images (figures 1-4).

Referring to claim 10, EPSON further discloses the step of using the image processing parameters associated with the rendered digital images to calculate a tone scale function (figure 3. The tone scale function is shown on the left portion of the “Manual Retouch” window in figure 3).

Referring to claim 12, EPSON further discloses that one of the selected rendered digital images is selected at least twice and the enhanced image processing parameters associated with the selected rendered digital images are a function of the number of times of the at least twice selected rendered digital image is selected [figures 3 and 6-7. Figure 3 shows a screen shot image of a selected rendered digital image (Red -) that is selected once. Figure 6 shows a screen shot image of the selected rendered digital image (Red -) that is selected twice. Figure 7 shows a screen shot image of the selected rendered digital

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image (Red -) that is selected three times, and the enhanced imaging parameters are shown on the left portion of the “Manual Retouch” window. Note that the enhanced imaging parameters are a function of the number of times the rendered digital image is selected (in this case, three times)].

Referring to claim 14, ESPON further discloses the step of selecting a mode button on the display before each selection of a rendered digital image (figures 1 and 5. Note that the “Color” and “Brightness” tabs are interpreted as a mode button).

Referring to claims 23, 37, 46, see the rejection of at least claim 14 above.

Referring to claims 24, 47, see the rejection of at least claim 1 above.

Referring to claim 25, see the rejection of at least claim 2 above.

Referring to claim 26, see the rejection of at least claim 3 above.

Referring to claims 27, 39, see the rejection of at least claim 4 above.

Referring to claims 28, 40, see the rejection of at least claim 5 above.

Referring to claims 29, 41, see the rejection of at least claim 6 above.

Referring to claim 30, see the rejection of at least claim 7 above.

Referring to claim 31, see the rejection of at least claim 8 above.

Referring to claim 32, see the rejection of at least claim 9 above.

Referring to claims 33, 42, see the rejection of at least claim 10 above.

Referring to claim 34, see the rejection of at least claim 11 above.

Referring to claims 35, 44, see the rejection of at least claim 12 above.

Referring to claim 38, see the rejection of at least claim 15 above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the software program published by EPSON entitled "Film Factory" version 1.0 and the relevant material associated with the program ("EPSON").

Referring to claim 2, EPSON does not explicitly disclose the step of storing enhanced image processing parameters with the source digital image as meta-data. However, Official notice is taken that storing image processing parameters as meta-data was exceedingly well known in the art. Therefore, it would have been obvious to store the enhanced image processing parameters with the source digital image as meta-data in the method of EPSON. The suggestion/motivation for doing so would have been to provide the capability of performing the image processing at a later time, thereby increasing the flexibility of the system.

Referring to claim 43, EPSON fails to explicitly teach a spatial filter. However, Official notice is taken that spatial filters were exceedingly well known in the art, and commonly used for enhancing a digital image. Therefore, it would have been obvious to include a spatial filter in the method of ESPON, in order to improve the enhancement of the digital image.

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6. Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of the software program published by EPSON entitled "Film Factory" version 1.0 and the relevant material associated with the program ("EPSON") and Boyack et al., U.S. Patent No. 5,724,456 ("Boyack").

Referring to claim 70, EPSON does not explicitly disclose a compressed tone scale function wherein different regions of an enhanced image have different brightness values. However, this feature was exceedingly well known in the art. For example, Boyack discloses a compressed tone scale function wherein different regions of an enhanced image have different brightness values (col. 12, lines 35-50).

EPSON and Boyack are combinable because they are both concerned with digital image enhancing techniques. Boyack's compressed tone scale function eliminates the adverse effects that result from displaying an image having wide dynamic range, such as clipping of the brighter and darker areas of the image, which results in the bright objects being washed out and deep shadows being blocked up (Boyack, col. 12, lines 27-39). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the compressed tone scale function of Boyack, as part of the enhanced image processing parameters of EPSON. The suggestion/motivation for doing so would have been further enhance the image by reducing the unwanted effects caused during display. Therefore, it would have been obvious to combine EPSON with Boyack to obtain the invention as specified in claim 70.

***Allowable Subject Matter***

7. Claims 13, 22, 36, 45 are allowed.



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***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kim whose telephone number is 703-306-4038. The examiner can normally be reached on Mon thru Thurs 8:30am to 6pm and alternating Fri 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703-308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ck*  
ck

August 19, 2004

  
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